

a separate weighting through the Indian School Equalization Formula.

[44 FR 61864, Oct. 26, 1979. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 49 FR 36368, Sept. 17, 1984]

**§ 39.31 Conditions of eligibility for funding.**

(a) To be eligible for direct formula funding as established in subpart B of this part, a day school, boarding school, or dormitory must meet minimum standards, or, failing to do so, must include in its financial plan steps acceptable to the Director for taking corrective action to meet the standards to be prescribed pursuant to section 1121 of the Education Amendments of 1978 (Pub. L. 95-561; 25 U.S.C. 2001). Until such standards are prescribed, the Director shall determine eligibility for funding in accordance with established procedures for authorizing Bureau operated schools.

(b) To be eligible for direct formula funding, a tribally operated day or boarding school or dormitory must meet the requirements of part 271 of this chapter (25 CFR part 271) for receipt of Bureau Education funds under contracts for school operation.

**§ 39.32 Annual computation of average daily membership.**

(a) Average daily membership (ADM) as defined in § 39.2(f) shall be determined during the last full school week in September during which all students eligible under the definition shall be counted by student program classification.

(b) The Director shall direct the receipt and management of information necessary to obtain timely ADM reports from schools. Agency education offices and, in the case of off-reservation boarding schools, Area education offices together with each school's supervisor and school board chairperson where a board exists shall be responsible for certifying the validity of each school's student counts. The September ADM will be used to determine final allotments for the school year.

[49 FR 36368, Sept. 17, 1984]

**§ 39.33 Special education unduplicated count provision.**

In counting special education ADM with the exception of speech therapy, no child shall be counted or funded twice for participation in more than one special education program.

**§ 39.34 Substitution of a count week.**

A school may petition the Director to substitute another week in the same month for the specified count week if it can be established that to use the specified count week would result in grossly inaccurate student counts. Where tribal ceremonial days are known in advance, such a petition shall be submitted in advance of the determined count week.

**§ 39.35 Computation of average daily membership (ADM) for tentative allotments.**

Tentative allotments for each future year's funding shall be based on the ADM for the September count week of the current year.

[49 FR 36368, Sept. 17, 1984]

**§ 39.36 Declining enrollment provision.**

If the decline of a school's average daily membership exceeds ten percent in any given school year, the school may elect to request funding based on the average of the current and previous years' September ADM count.

[49 FR 36368, Sept. 17, 1984]

**§ 39.37 Auditing of student counts.**

The Secretary shall provide for auditors as required to assure timeliness and validity in reporting student counts for formula funding.

**§ 39.38 Failure to provide timely and accurate student counts.**

(a) Responsible Bureau school, Agency, Area, and Central Office administrators may be dismissed for cause, or otherwise penalized, for submission of invalid or fraudulent annual student ADM counts or willfully inaccurate counts of student participation in weighed program areas. A person who knowingly submits or causes to be submitted to a Federal official or employee false information upon which the expenditure of Federal funds is